LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6770 | **NOTE PREPARED:** Jan 2, 2009
BILL NUMBER: SB 265 | **BILL AMENDED:**

SUBJECT: Capital Access Program.

FIRST AUTHOR: Sen. Kruse | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: This bill defines "lender", for purposes of the Economic Development Corporation's Capital Access Program, to be a lender that is approved by the corporation as responsible and able to service a loan properly. It provides that the definition of "small disadvantaged business" under regulations promulgated by the United States Small Business Administration (rather than the definition of "disadvantaged business enterprise" under state law) applies for purposes of the Capital Access Program.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Indiana Economic Development Corporation (IEDC)*: This bill expands the Capital Access Program (CAP) by allowing lenders to participate without entering into agreements with IEDC, but requiring IEDC's approval of the lenders. The bill also changes the definition of "disadvantaged business enterprise" under state law to "small disadvantaged business" under the Code of Federal Regulations. The IEDC's current level of resources should be sufficient to implement the changes in these provisions.

Explanation of State Revenues: *Summary*- This bill should increase utilization of CAP. Currently, the IEDC doubles its contributions when lenders make loans to businesses that are owned and operated by racial minorities. By changing the definition, the IEDC will double its contributions when lenders lend to small disadvantaged businesses. This provision should not impact the Fund, as long as there are sufficient funds available in the CAP Fund.

Background Information-

Definition of "Small Disadvantaged Business (SDB)": A small disadvantaged business is a small business that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged. Businesses must be certified by the Small Business Administration (SBA) to qualify for SDB status.

The SBA defines socially disadvantaged groups as those who have been subjected to "racial or ethnic prejudice or cultural bias." Identified groups include African Americans, Asian Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans. Members of other groups may qualify if they can demonstrate that they meet established criteria. Economically disadvantaged individuals are those who are considered to not be able to compete in the free enterprise system due to limited access to financial opportunities.

Capital Access Program (CAP) - CAP was created in 1992 under IC 5-28-29 to provide capital to small businesses. The program provides reserve funds to lenders to utilize as additional collateral to secure business loans. Currently, 38 financial institutions are active participants in CAP. The IEDC indicates that the majority of the participating financial institutions are community banks. A participating financial institution must establish a reserve account in which premiums paid by borrowers, lenders, and the state on loans the institution enrolls in CAP are deposited. The money in the reserve account is to be used to back the CAP loans enrolled by the financial institution. If a loan is uncollectible and charged off by the financial institution, the money in the reserve account is used to pay the uncollectible loan.

Current statute requires that on CAP loans the borrower must pay a premium of 1.5% to 3.5% of the loan value and this premium must be matched equally by the financial institution. However, current statute also allows for the financial institution's premium to be paid by the borrower. The IEDC indicates that the loan premiums (borrower and lender share) are typically paid by the borrower, so the premium range for the borrower is essentially 3% to 7% of the loan value. Under current statute, the state matches borrower and lender premiums at a rate of 100% to 300%, depending upon enrolled loan values and borrower type. The state matching funds come from the Capital Access Account.

Since the incipience of CAP in 1993, 3,577 loans have been enrolled totaling about $178.7 M, for an average loan of about $50,000. The premiums paid on these loans have totaled about $6 M, with the state match totaling about $7.9 M. A total of 345 loans have been charged off, with the claims against reserve accounts totaling about $12 M, or about $36,000 per loan. As of December 12, 2008, the reserve accounts of participating financial institutions contained about $3.7 M. As of December 31, 2008, the balance in the state Capital Access Account was about $5.5 M.

Explanation of Local Expenditures:

Explanation of Local Revenues: See *Explanation of State Revenues.*

State Agencies Affected: IEDC.

Local Agencies Affected:

Information Sources: Matt Tuohy, IEDC, 317-233-9138; State Auditor's database.

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